

### **REMARKS / ARGUMENTS**

In response to the Office Action dated January 25, 2007, Applicant(s) respectfully request reconsideration based on the above claim amendment and the following remarks. Applicant respectfully submits that the claims as presented are in condition for allowance.

#### **Status of Claims**

Claims 1-13 were pending in the application and stand rejected. Claims 1, 5, 6, and 11-13 have been amended. Claims 2-4 have been cancelled without prejudice or disclaimer. Accordingly, claims 1 and 5-13 remain for consideration upon entry of the present Amendment. Reconsideration of this application is respectfully requested in view of the foregoing claim amendments and the following remarks.

#### **Double Patenting Rejections**

Claims 1-13 stand rejected on the ground of nonstatutory double patenting over claims 1-20 of U.S. Patent No. 7,088,087 since the claims, if allowed, would allegedly extend the "right to exclude" already granted in the patent. According to the Examiner, the subject matter claimed in the instant application is fully disclosed in the patent, and the patent and application are claiming common subject matter.

U.S. Patent 7,088,087 issued to Joel Dunsmore on August 8, 2006. The patent is entitled, "Network Analyzer Including Automatic Port Extension Calibration and Method of Operation". The assignee at issue, as well as the current assignee, is Agilent Technologies of Palo Alto, CA. On the other hand, the assignee of the present application is the BellSouth Intellectual Property Corporation of Wilmington, DE. Since the Dunsmore patent and the present patent application are not assigned to the same party, the Examiner's double patenting rejection is inappropriate and should be withdrawn.

The Dunsmore patent describes methods for automatically calibrating a network analyzer for measuring electronic devices under test. Before mounting an electronic

device into a special test fixture, the phase response of the test fixture is measured. The Dunsmore patent has nothing whatsoever to do with Applicants' claimed wireless communication system that provides interactive voice response functionality for prepaid wireless services. Dunsmore neither discloses nor suggests use of an interactive voice response system. Moreover, Dunsmore neither discloses nor suggests use of a prepaid service plan. Since the subject matter claimed in the instant application has nothing to do with what is claimed in the Dunsmore patent, Dunsmore and the present application are not claiming common subject matter. Accordingly, the Examiner's double patenting rejection should be withdrawn.

In the interest of expediting prosecution, it is believed that the Examiner mistakenly cited U.S. Patent No. 7,088,087 when he actually intended to cite U.S. Patent No. 7,088,987. Of note, U.S. Patent No. 7,088,987 is assigned to the assignee of the present application and discloses a "Pre-Paid Wireless Interactive Voice Response System with Variable Announcements". The independent claims of U.S. Patent No. 7,088,987 provide, inter alia, for a menu-driven system that responds to information received from a customer by reciting a rate plan that is the current rate plan for the customer and by reciting features for calls made the customer using a wireless device.

Independent claim 1 of the present application (as amended) is not coextensive in scope with the claims of U.S. Patent No. 7,088,987. For example, claim 1 of the present application provides, inter alia, "wherein the wireless communication system is adapted to accept an incoming call from a calling party placed using a predetermined dialed number shorter than seven digits." These features are not present in any claim of U.S. Patent No. 7,088,987. Accordingly, any potential double patenting rejection based upon U.S. Patent No. 7,088,987 would be inappropriate.

**Rejections Under 35 U.S.C. §103(a)**

Claims 1-6, 10, 11, and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Henderson (U.S. Patent No. 6,327,363), hereinafter "Henderson", in view of Stevens (U.S. Patent No. 6,404,880), hereinafter "Stevens".

Regarding claim 1, the Examiner acknowledges that Henderson does not specifically disclose a wireless system providing a mobile switching center and a wireless device for communicating with each other over the air. Accordingly, the Examiner looks to Stevens in an attempt to cure this deficiency.

The foregoing rejections are traversed for the following reasons. Applicants respectfully submit that the obviousness rejection based on Stevens and Henderson is improper as Stevens and Henderson fail to teach or suggest each and every element of the instant invention in such a manner so as to perform as the claimed invention performs. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

Even if the teachings of Stevens and Henderson are combined, the resulting combination fails to meet applicants' claimed invention. Amended claim 1 now recites, *inter alia*, that "the wireless communication system is adapted to accept an incoming call from a calling party placed using a predetermined dialed number shorter than seven digits." Henderson describes a system for providing telephone-based product support services after a product is purchased (Henderson, col. 1, lines 29-37 and 54-56). The system permits product and service vendors to control access to call center services through an intelligent network that uses an interactive voice response network (Henderson, col. 2, lines 45-49).

Although the Examiner cites col. 5, line 52 to col. 6 line 26 and FIG. 2 of Henderson to allegedly show that Henderson teaches accepting an incoming call using a predetermined dialed number that is an abbreviated number, this is incorrect. Block 200

of FIG. 2 shows that a conventional eleven-digit 1-800 number must be dialed to access the customer service network (reference numeral 204). No mechanism is provided by which a four-digit PIN could be used to access network 204. Instead, the four-digit PIN is received by a transaction processor (reference numeral 209) after a connection to the IVR system using the 1-800 number is already established. Similarly, col. 5, line 52 to col. 6, line 26 of Henderson describe a customer accessing the IVR by placing a call using a standard toll-free 1-800 number. After the IVR application (reference numeral 212) receives the 1-800 call dialed by the customer, the IVR application forwards the PIN number to transaction processor 209 for subsequent routing. Henderson neither discloses nor suggests that a customer can establish an initial connection with customer service network 204 by dialing an abbreviated number such as a PIN code. Rather, this PIN code is used in Henderson after the initial connection with the IVR is already established.

Stevens fails to remedy the deficiencies of Henderson. With reference to col. 3, lines 24-47, Stevens provides subscriber alerts to warn subscribers as to severe traffic or weather conditions. The subscriber receives these alerts on a cellular phone, over the public switched telephone network (PSTN), on a pager, or via email. Stevens fails to disclose Applicants' claimed feature that "the wireless communication system is adapted to accept an incoming call from a calling party placed using a predetermined dialed number shorter than seven digits." Instead, Stevens discloses delivery of prerecorded alert messages to subscribers over an Interactive Voice Response system (see Stevens, FIG. 4 and col. 10, line 60 to col. 11, line 57). Stevens neither suggests nor teaches any mechanism for routing a calling party to the IVR when the system receives a predetermined dialed number shorter than seven digits.

In view of the foregoing, claim 1 is patentable over Henderson and Stevens. Claims 5-13 depend from claim 1 and include all recitations thereof. Accordingly, it is submitted that claims 5-13 are patentable over Henderson and Stevens for the reasons discussed above in connection with claim 1.

In addition to the foregoing, Applicants find no motivation or suggestion in Henderson to modify the teachings of Stevens to arrive at the claimed arrangement of

elements. Likewise, there is no motivation or suggestion in Stevens to modify the teachings of Henderson to arrive at the claimed arrangement of elements. Henderson's network for accepting customer service calls has no relation whatsoever with Stevens' system for issuing traffic and weather alerts.

Applicants submit that Stevens and Henderson fail to teach or suggest each and every element of the claimed invention and are therefore wholly inadequate in their teaching of the claimed invention as a whole, fail to motivate one skilled in the art to do what the patent Applicants has done, fail to recognize a problem recognized and solved only by the present invention, fail to offer any reasonable expectation of success in combining Stevens and Henderson to perform as the claimed invention performs, disclose substantially different inventions from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicants respectfully request reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which rejections Applicants consider to be traversed.

### CONCLUSION

In light of the foregoing, Applicants respectfully submit that the Examiner's rejections under 35 U.S.C. §103(a), have been traversed, and respectfully requests that the Examiner reconsider and withdraw these rejections.

If a communication with Applicant's Attorneys would assist in advancing this case to allowance, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130. In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,  
CANTOR COLBURN LLP  
Applicants' Attorneys

By: 

DATED: 23<sup>rd</sup> day of April, 2007

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